



# NIXON PEABODY LLP

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June 8, 2005

Mary L. Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station, 2<sup>nd</sup> Floor  
Boston, MA 02110

Re: Bay State Gas Company, D.T.E. 05-27

Dear Ms. Cottrell:

Enclosed is a Motion for Protective Treatment requesting confidential treatment for the spreadsheet models developed by James L. Harrison and used in the responses to information requests AG 7-12, 13, 14, 15, 16 and 23.

Very truly yours,

Robert L. Dewees, Jr.

RLD/tlm  
Enclosure

cc: Caroline M. Bulger, Hearing Officer (1 copy)  
John Sullivan, DTE (7 copies)  
Andreas Thanos, Assistant Director, Gas Division (1 copy)  
Alexander J. Cochis, Assistant Attorney General (4 copies)  
Patricia M. French

**THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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Petition of Bay State Gas Company )  
For Approval of Revised Tariffs )  
And Other Rate Modifications )

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D.T.E. 05-27

**MOTION OF BAY STATE GAS COMPANY  
FOR PROTECTIVE TREATMENT**

**I. INTRODUCTION**

Bay State Gas Company (“Bay State”) requests that the Department of Telecommunication and Energy (“Department”) grant protection from public disclosure, pursuant to G.L. c. 25, §25D, for certain spreadsheet models contained on a compact disk, marked “Protected Materials”, prepared by Bay State’s witness in this proceeding, James L. Harrison, that are being filed in response to information requests AG 7-12, 13, 14, 15, 16 and 23 and which relate to the cost studies prepared by Mr. Harrison.

In support of its request for protective treatment, Bay State states as follows:

**II. LEGAL STANDARD**

Confidential information may be protected from public disclosure in accordance with G.L. c. 25, §25D, which states in part that:

The [D]epartment may protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be on the proponent of such protection to prove the need for such protection. Where the need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

In determining the existence and extent of such a need, the Department must consider the presumption in favor of disclosure and the specific reasons why disclosure of the disputed information benefits the public interest. Fitchburg Gas and Electric Light Company, D.P.U. 97-5A, p. 4 (1997), citing Berkshire Gas Company, D.P.U. 93-187/188/189/190, p.16 (1994).

### **III. THE COST STUDY MODELS ARE PROPRIETARY AND CONFIDENTIAL AND WARRANT PROTECTION FROM DISCLOSURE**

The Attorney General has requested working spreadsheet models that Mr. Harrison used in the preparation of his cost of service and marginal cost studies. See AG 7-12, 13, 14, 15, 16 and 23. These spreadsheet models constitute confidential and competitively sensitive business information developed by Mr. Harrison and his firm, Management Applications Consulting, Inc. (MAC). The models contain proprietary information and trade secrets of Mr. Harrison and MAC, and both Mr. Harrison and MAC treat these models as highly confidential and proprietary business information. Public disclosure of the models would cause competitive harm to Mr. Harrison's business and to MAC. The models should not be publicly disclosed or disclosed to any entities or individuals other than for use in this proceeding subject to protective treatment. There would be no harm to the public resulting from protection of Mr. Harrison's spreadsheet models and substantial harm to Mr. Harrison and MAC if the models were publicly disclosed.

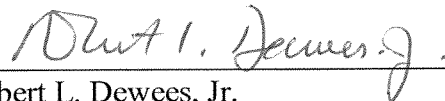
#### IV. CONCLUSION

For the reasons set forth above, Bay State requests that the Department protect from public disclosure the spreadsheet models of James L. Harrison provided in response to information requests AG 7-12, 13, 14, 15, 16 and 23.

Respectfully submitted,

BAY STATE GAS COMPANY

By its attorneys,



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and



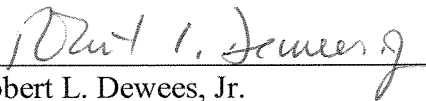
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Dated: June 8, 2005

# CERTIFICATION

I certify that I served today a copy of the attached Motion for Protective Treatment by hand delivery, first class mail postage prepaid or electronically on the Department of Telecommunication and Energy and all parties on the service list on file with the Secretary of the Department of Telecommunication and Energy for this proceeding.

Dated at Boston, Massachusetts this 8<sup>th</sup> day of June, 2005

  
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Robert L. Dewees, Jr.